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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,850	01/09/2002	Karel F.A.A. Smits	P-9499.00	2310
27581	7590	10/23/2003	EXAMINER	
MEDTRONIC, INC. 710 MEDTRONIC PARKWAY NE MS-LC340 MINNEAPOLIS, MN 55432-5604			MACHUGA, JOSEPH S	
			ART UNIT	PAPER NUMBER
			3762	

DATE MAILED: 10/23/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/045,850

Applicant(s)

SMITS ET AL

Examiner

Joseph S. Machuga

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7, 13-15, 18-21 and 23-25 is/are allowed.
- 6) ☒ Claim(s) 8-12, 16, 17 and 22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 and 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8, 17 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The above noted claims are confusing. All the embodiments disclose the elongated tubular member and the wire coil as two separate components. Therefore the claim language that states that they are formed of a single elongated wire coil is not understood.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Panescu et al 6500172.
3. Panescu et al disclose an elongated medical instrument. As illustrated in Figure 23 the device includes a wire coil/lumen having a proximal and distant end, a longitudinally moveable wire and a pair of short wires (80+feed wires) that as illustrated

in Figure 24 would maintain the spacing between coils. While not intended to be a control cable it is considered to be obvious that tension on the leads would induce bending of the coil. Therefore the subject matter recited in those claims would be taught by this reference.

4. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Panescu et al 6500172 in view of Cook 3521620.

5. Panescu et al disclose an elongated medical instrument. As illustrated in Figure 23 the device includes a wire coil/lumen having a proximal and distant end, a longitudinally moveable wire and a pair of short wires (80+feed wires) that as illustrated in Figure 24 would maintain the spacing between coils. While not intended to be a control cable it is considered to be obvious that tension on the leads would induce bending of the coil. Not disclosed by this reference is the control wire having a flattened surface.

6. Cook also discloses an elongated medical instrument. One of the control wires 21 has a flattened cross section. This design would obviously make the device easier to flex in the direction shown in Figure 3.

7. Given this teaching it would have been obvious to one of ordinary skill in the art to make Panescu et al's control wire (26) rectangular in shape given Cook's teaching

Art Unit: 3762

that this design is old and well known and would make flexing in certain directions easier.

8. Claims 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cook 3521620.

9. Cook discloses a medical device having a coil, control rod 20 and backbone 21. The backbone is attached to the coils by welding. The reference also teaches the use of a flattened rod. Not disclosed by this reference is the flattened control rod. However given Cooks disclosure, it would have been obvious to one of ordinary skill in the art to make the control rod flat to add flexibility to it.


10. Claims 1-7, 13-15, 18-21 and 23-25 are allowable.

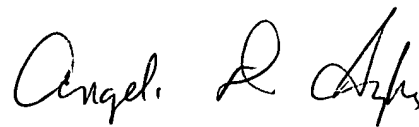
11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph S. Machuga whose telephone number is 703-305-6184. The examiner can normally be reached on Monday-Friday; 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela D Sykes can be reached on 703-308-5181. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.


Joseph S. Machuga
Examiner
Art Unit 3762



ANGELA D. SYKES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700